

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES MICHAEL McCLAIN,

Defendant.

CASE NO: 2:24-CR-0093-TOR

ORDER ON PENDING MOTIONS

BEFORE THE COURT are Defendant's Motion to Dismiss Count 3 (Commerce Clause), ECF No. 54; Motion to Dismiss Count 3 (Second Amendment), ECF 55; Motion in Limine, ECF No. 63; and Motion in Response to Government Notice of Intent to Introduce Defendant's Statements, ECF No. 70. The motions were discussed at the Pretrial Conference, and having reviewed the docket and the files therein, the Court is fully informed.

**1. Defendant's Motion to Dismiss Count 3 (Commerce Clause), ECF No. 54; Motion to Dismiss Count 3 (Second Amendment), ECF 55.**

There is no binding precedent that would require this Court to dismiss Count

1 3 charging the Defendant with Felon in Possession of a Firearm. Based on the  
2 Government's briefing, ECF Nos. 60 and 61, the Court denies Defendant's  
3 motions to dismiss.

4 **2. Motion in Limine, ECF No. 63.**

5 Defendant seeks to preclude the introduction of his prior crimes occurring  
6 within 10 years of the present crime. If Defendant testifies, he may be impeached  
7 with his felony drug convictions. Fed. Rule of Evidence 609. Additionally, the  
8 United States may introduce his prior drug convictions under Fed. R. Evidence  
9 404(b) to show proof of motive, opportunity, intent, preparation, plan, knowledge,  
10 identity, or absence of mistake, or accident. His convictions were within 10 years  
11 and show that he did not make a mistake.

12 **3. Motion in Response to Government Notice of Intent to Introduce**  
13 **Defendant's Statements, ECF No. 70.**

14 Defendant seeks to preclude the Government from introducing statements  
15 during his interview when he said, "I am not going to incriminate myself." These  
16 statements are equivalent to invocation of his *Miranda* rights and are not  
17 admissible.

18 **IT IS HEREBY ORDERED:**

19 1. Defendant's Motion to Dismiss Count 3 (Commerce Clause), ECF No.  
20 54, and Motion to Dismiss Count 3 (Second Amendment), ECF 55 are **DENIED**.

2. Defendant's Motion in Limine, ECF No. 63, is **DENIED**.

3. Defendant's Motion in Response to Government Notice of Intent to Introduce Defendant's Statements, ECF No. 70, is **GRANTED**. The Government cannot introduce statements Defendant said, "I am not going to incriminate myself" or anything equivalent to that.

IT IS SO ORDERED. The District Court Executive is directed to enter this order and provide copies to counsel.

DATED April 25, 2025.



*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge